

Below is an Order of the Court.



FRANK R. ALLEY
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF OREGON

In re

Richard David Kerivan
Roxanne Marie Kerivan,

Debtors.

Case No. 15-63152-fra13

Adv. Proc. No. Case 16-06026-fra

Richard Kerivan and Roxanne Kerivan,
individuals,

Plaintiffs,

v.

Lotte Kerivan, Personal Representative for
the Estate of Robert Kerivan,

Defendant.

ORDER ON PLAINTIFFS' MOTION
FOR REMAND

A hearing on this matter was held on April 6, 2016, the Honorable Frank R. Alley, presiding. Britta E. Warren appeared on behalf of Lotte Kerivan, Personal Representative for the Estate of Robert Kerivan (the "Estate"). Michael W. Franell and Penny L. Austin

1 appeared on behalf of Richard and Roxanne Kerivan (the “Plaintiffs”). After fully considering
2 the arguments of both parties and their respective documents, the Court announced its findings of
3 fact and conclusions of law on the record, as set forth below:

- 4 1. On September 7, 2015, Plaintiffs filed a voluntary petition under the
5 Chapter 13 of the United States Bankruptcy Code.
- 6 2. Subsequently, on October 9, 2015, the Plaintiffs filed a complaint against
7 the Estate, Case Number 15CV27488 in Josephine County Circuit Court,
8 State of Oregon (the “Litigation”).
- 9 3. On February 12, 2016, the Estate removed the Litigation to the United
10 States Bankruptcy Court for the District of Oregon. The Plaintiffs filed a
11 motion for abstention pursuant to 28 U.S.C. § 1344(c)(2) and remand
12 pursuant to 28 U.S.C. § 1452(b).
- 13 4. After considering the issues, the Court found that:
 - 14 a. The Litigation is more closely related to the probate proceeding
15 currently pending in Josephine County Circuit Court, State of
16 Oregon, for the Estate of Robert Kerivan, Case No. 15PB04022,
17 than it is related to the Chapter 13 Bankruptcy proceeding.
 - 18 b. The Litigation will be resolved exclusively by reference to state
19 laws.
 - 20 c. Comity is in favor of having the issue resolved in the Oregon state
21 courts.
 - 22 d. The Litigation should be able to be timely resolved in the Oregon
23 state courts.

- 1 e. Neither party should be prejudiced by having the Litigation
2 resolved in the Oregon state courts.
- 3 f. If the Litigation were scheduled in bankruptcy court, it most likely
4 would have to be tried in Eugene, rather than Medford, which
5 would cause an inconvenience to all parties and witnesses.
6 Therefore, based upon the aforementioned findings of fact and
7 conclusions of law.

8 IT IS HEREBY ORDERED that the Plaintiffs' motion is granted and the case is
9 remanded to Josephine County Circuit Court, State of Oregon, for further proceedings.

10 ###

11 I certify that I have complied with the requirements of LBR 9021-1(a)(2)(A) and (3).

12 Presented By:

13 /s/ Michael W. Franell

14 _____
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